

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

| | | |
|--|---|--------------------------|
| Timothy Charles Hester, |) | C/A No.: 2:13-02529-RMG. |
| |) | |
| Petitioner, |) | |
| |) | ORDER |
| |) | |
| vs. |) | |
| |) | |
| Warden Evans Correctional Institution, |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

This matter is before the Court on the Report and Recommendation (“R & R”) of the Magistrate Judge recommending that the Court dismiss the Petitioner’s action with prejudice for lack of prosecution and failure to comply with the Court’s orders. (Dkt. No. 31). Petitioner did not file objections. For the reasons set forth below, the Court agrees and ADOPTS the R & R as the order of the Court.

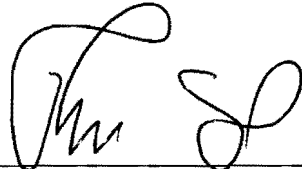
The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). This Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1) (2012). Here, however, because no objection has been made, this Court “must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P 72 advisory committee note). Moreover, in the absence of specific objections to the R & R, the Court need not give any explanation for adopting the Magistrate Judge’s analysis and recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983).

Despite warnings from the Magistrate Judge advising Petitioner that this action would be subject to dismissal if he failed to respond to the Respondent's Motion for Summary Judgment (Dkt. Nos. 12, 29) and repeated extensions of Petitioner's time to respond (Dkt. Nos. 15, 18, 24, 27, 29), Petitioner has failed to respond to Respondent's Motion for Summary Judgment. Accordingly, the Court agrees with the Magistrate Judge that Petitioner has satisfied all the criteria for dismissal pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and the factors set forth in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982).

Therefore the District Court **ADOPTS** the Magistrate Judge's R & R, (Dkt. No. 31), as the order of the Court. Accordingly, this action is **DISMISSED** with prejudice pursuant to Fed. R. Civ. P. 41(b).

AND IT IS SO ORDERED

June 27, 2014
Charleston, South Carolina



Richard Mark Gergel
United States District Court Judge